IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.4.2006.

CORAM

THE HONOURABLE MR. JUSTICE P.SATHASIVAM

and

THE HONOURABLE MR. JUSTICE J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.117 of 2006

Tmt.Lilly ... Petitioner

vs.

1. The State of Tamil Nadu
   rep. by its Secretary to Government,
   Prohibition and Excise Department.,
   Fort St. George, Madras 600 009.

2. The District Magistrate and
   District Collector,
   Vellore District, Vellore. ... Respondents

PRAYER : Writ Petition under Article 226 of the Constitution of India seeking to issue a Writ of Habeas Corpus calling for the records relating to the detention order in Ref. No.C3.D.O.No.6/2006 dated 13.1.2006 passed by the second respondent and quash the same and further directing the respondents to produce the body of the person of the detenu namely Rajamani son of Krishnan before this Honourable Court, who is now detained under Act 14/1982 and confined at the Central Prison, Vellore and set him at liberty.

For Petitioner : Mr.V.Parthiban
for Mr.E.Kannadasan.

For Respondents : Mr.Abudukumar Rajarathinam,
Government Advocate (Crl. Side)

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(Order of the court was made by P.SATHASIVAM, J.)

Petitioner is the wife of the detenu. She challenges the detention order Ref. No.C3.D.O.No.6/2006 dated 13.1.2006 passed by the second respondent.

2. Heard both sides. At the foremost, the learned counsel for the petitioner submitted that there is delay in disposal of the representation which vitiates the detention order.

3. The particulars furnished by the learned Government Advocate show that the representation was received by the Government on 31.1.2006. Remarks were called for on 1.2.2006. Remarks were received on 17.2.2006. The Under Secretary dealt with the file on 17.2.2006 and the Deputy Secretary dealt with the file on 20.2.2006.

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Finally, the Minister for Prohibition and Excise passed order on 21.2.2006 and rejection letter was prepared on 24.2.2006 and it was sent to the detenu on 27.2.2006 which was served on 1.3.2006.

4. As rightly pointed out by the learned counsel for the petitioner, though the office of the Collectorate received the representation from the Government 7.2.2006 and remarks were called from the Sponsoring authority on the same day, remarks were received from the Sponsoring Authority by the Collectorate only on 15.2.2006. In the absence of proper explanation by the person concerned for taking time from 7.2.2006 to 15.2.2006, we hold that the detenu is prejudiced in disposal of his representation. On this ground, the detention order is quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is quashed. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government,
   State of Tamil Nadu,
   Public and Excise Department,
   Fort St. George,
   Chennai-600 009.

2. The District Magistrate and
   District Collector,
   Vellore District, Vellore.

3. The Superintendent, Central Prison,
   Vellore.

4. The Public Prosecutor, High Court,
   Chennai-600 104.

5. The Joint Secretary to Government
   Public (Law and Order)
   Fort St.George
   Chennai-9.

+ one cc to Mr.E.Kannadasan, Advocate Sr.No.21256.

MAB (CO)
RSM/10.5.2006 H.C.P.No.117/2006

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